



Missouri Department of Natural Resources

Water Quality Coordinating Committee Water Pollution Control Program

Minutes

May 18, 2004

WATER QUALITY COORDINATING COMMITTEE

DNR Conference Complex
1738 E. Elm Street
Bennett Springs Conference Room
Jefferson City, Missouri

May 18, 2004
10:00 a.m.

MEETING AGENDA

Planned Revisions to Missouri's Water Quality Standards
Phil Schroeder and Stacia Bax, DNR, Water Protection Program

Other
303(d) List Issues - Update
Grant Opportunities

Agency Activities

Meetings & Conferences

MISSOURI WATER QUALITY COORDINATING COMMITTEE

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MINUTES

Attendees:

Becky Shannon	DNR/Water Protection Program WPCB	Jack Dutra	JD Info Services/Syngenta
Darlene Schaben	DNR/Water Protection Program WPCB	Bob Hentges	MO Public Utility Alliance
Robert Brundage	Newman, Comley & Ruth	Kevin Perry	REGFORM
Colleen Meredith	DNR/Water Protection Program WPCB	Steve Taylor	ERC/MO Corn Growers Association
Randy Sarver	DNR/ESP	Anne Peery	DNR/Water Protection Program WPCB
John Knudsen	DNR/Water Protection Program WPCB	Stacia Bax	DNR/Water Protection Program WPCB
Cindy DiStefano	MDC	Buffy Skinner	MSD
Phil Schroeder	DNR/Water Protection Program WPCB	Jim Hull	DNR/Water Protection Program
Angel Kruzen	Water Sentinel, Sierra Club	Royan Teter	EPA Region 7
Christine Smith	City of Independence	Gary Baclesse	DNR/Soil & Water Conservation Pgm
Trent Stober	Midwest Env. Consultants	Greg Anderson	DNR/Water Protection Program-WPCB
Paul Andre	MO Department of Agriculture	Charles Hays	DNR/GSRAD/WRP
Bob Ball	USDA-NRCS	Michael Heaton	DNR/Northeast Regional Office

Becky announced that the “Other” items on the Agenda would be presented first to allow ample time for discussion of the Water Quality Standards revisions.

Jim Hull said the Water Quality Standards changes being discussed today are mostly changes that have been identified by EPA. Staff have been working with EPA on suggested revisions to the regulations. The lawsuit filed by the Coalition for the Environment against EPA has complicated the situation. Discussions on how to reach an agreement to satisfy the lawsuit are ongoing between the Coalition and EPA. The proposed timeframe is to accommodate the lawsuit. This is a longer rulemaking process than in the past. There will be a 6-month comment period because of the extensiveness of the changes and the effects on the regulated community. A public hearing will also be held. Staff will be working closely with stakeholders, the Clean Water Commission (CWC) and EPA during this process. A draft of the rule has been shared with the CWC and EPA. Copies will be available after the rule has been filed.

Introductions were made.

303(d) List Issues – Update, Phil Schroeder, DNR Water Protection Program

At the last meeting Phil informed the group that the 303(d) Listing Methodology rule was being filed with the Joint Committee of Administrative Rules (JCAR). Normally the rule would then go to Secretary of State’s office for publishing in the Missouri Register for the Final Order of Rulemaking, but JCAR found issue with the rule and had comments that needed addressed. There was a reference to the Detailed Methodology document in the rule as being developed by the department through stakeholder process and later being adopted by the CWC for use in preparing the 303(d) listing. Under Section 536 RSMo, Administrative Procedures Act, any procedure of general applicability must be promulgated by rule. Language was included that said the Detail Methodology Document would be promulgated by rule once developed through the stakeholder process and sent back to JCAR. This means that this is now a dual process. Staff will be promulgating a rule on the Detailed Methodology Document at the same time as promulgating a rule on the 303(d) List. With good stakeholder support this can be

done by the agreed upon schedule. At the end of the process, not only will there be a rule that states what the 303(d) list is for the next round, it will also state what the detailed procedures are.

The first of a series of meetings to discuss the detailed methodology document is scheduled for Thursday, May 20, at the Governor's Office Building, Room 470, at 9:30 a.m. A suggestion was made that the biological monitoring aspect of when a stream is impaired be discussed at this meeting and if the direction the department is heading matches up with the listing methodology document.

The 303(d) Methodology Rule should be in the Missouri Register by June 1. A notice will be sent to the WQCC group.

Grant Opportunities, Becky Shannon, DNR, Water Protection Program

Becky listed some web sites where grant funding opportunities can be found.

www.epa.gov/owow/funding.htm; www.epa.gov/region07/economics/r7_grant_opportunities.htm;

www.dnr.mo.gov/wpscd/wpcp/index.html; www.dnr.mo.gov/oac/community.htm

The EPA sites generally leave the older RFP to see what happened the last year. The Region 7 site lists each funding availability in chronological order and includes a description. The DNR page shows what is currently available. For example, the 319 RFP is now available with proposals due July 1, 2004. Greg Anderson is the contact. The OAC site lists what funding opportunities are available throughout the department.

Planned Revisions to Missouri's Water Quality Standards, Stacia Bax, DNR, Water Protection Program

PowerPoint Presentation (contact Darlene or Stacia for a copy)

Stacia works in the program's Water Quality Monitoring and Assessment Section, Water Quality Standards Unit. She said the department received a letter from EPA on September 8, 2000, explaining the approved and disapproved items from the 1994 and 1996 revisions as well as some other recommended changes. In 2001 and 2003, some stakeholder meetings were held then the department began the triennial review. On October 7, 2003, a lawsuit was filed against EPA by the Coalition for the Environment.

The rules affected are 10 CSR 20-7.015, Effluent Regulations and 10 CSR 20-7.031, Water Quality Standard. Stacia went over the groups of changes that EPA recommended in their letter. The Coalition for the Environment lawsuit included 16 claims of which 15 are to be addressed in the draft revisions.

Stacia said the first group of revisions are those that EPA disapproved. EPA recommended that more protection of wetlands is needed. In the draft rulemaking, language is added to clarify development of specific criteria on a wetland-by-wetland basis. Drinking water supply metals are currently analyzed using the dissolved method. EPA recommended use of the total recoverable method. The draft rulemaking has total recoverable for those metals based on the MCL of the Safe Drinking Water Act (SDWA) and keeps dissolved for those in the SDWA that has secondary standards. Draft rulemaking for metals criteria for protection of aquatic life will be recalculated using *Ceriodaphnia* and are equation-based criteria (hardness dependant). A table will be included that is based on hardness but based on the lowest hardness value in a range, and increases protection of aquatic life (AQL). Stacia mentioned the metals affected. In answer to a question about the selection of the MCL on total recoverable metals for the standard, Phil stated that the state is adopting federal guidance on this issue. In answer to another comment on potential impact, Becky suggested that if anyone has any data that would be helpful to be sure to submit it during the comment period. Phil said the EPA letter of September 8 is available to the public and might help explain the basis for some of changes.

The current language in the standards for site specific criteria doesn't explain how or the methods used for site specific modifications. The draft rulemaking deletes the four references to site specific criteria and adds a subsection that describes the site-specific criteria development methods for all water quality criteria. Stacia said this isn't really a change but just more clarification that is based on EPA's Water Quality Standards handbook.

Several criteria in Table A were found inconsistent with federal criteria. Those include criteria for Human Health Protection - Fish Consumption and Protection of Drinking Water Supplies. Six waters of Table C designated for cold water fisheries had reduced mileage or were removed during past revisions. Two waters are being restored in the draft rulemaking and the mileage is being corrected on four waters. Some changes will be made in Tables G & H to rectify discrepancies. Some changes are minor.

The next group of revisions are those that EPA found inconsistent with the Clean Water Act. Allowing Publicly-owned Treatment Works (POTWs) discharges in Outstanding National Resource Waters (ONRW) was found to be inconsistent. The draft rulemaking will revise the language to be consistent with Antidegradation Policies. Missouri currently lists all classified waters for aquatic life, but selectively lists water bodies for whole body contact recreation (WBCR). The draft rulemaking will immediately designate all waters in Tables G and H for WBCR. (Immediately means on the effective date of the rule.) An implementation schedule will also be included addressing when affected permitted facilities must comply with the revised standard. Stacia said the Use Attainability Analysis (UAA) process will help provide evidence if a stream does not need to be classified as WBCR. If that information can be provided during the public comment period, then listing could be revised and not require those facilities to disinfect. Phil mentioned that the UAA approach used in Kansas can be adopted fairly quickly in Missouri and utilized while going through the rulemaking process to eliminate some waters that do not need to be listed as a WBCR stream. After the rule is in effect, under the implementation schedule, facilities would be allowed up to three years to do a UAA and come into compliance.

Phil said that the Water Quality Standards are written as a phase-in to *E. coli*. It is a challenge to translate from ambient into an effluent limit and there are still unanswered questions. There is not an approved EPA method for *E. coli* in wastewater. In response to a question, Phil said comments on the draft proposed rule are not being accepted right now. Preliminary informational type meetings are being held to inform the public of what the department is planning to do and to educate and be prepared for what is coming so they can comment during the official comment period.

There was some discussion about the decision for Missouri to use the Kansas UAA process. Phil recommended having a UAA process discussion at the June 15 WQCC meeting. Staff are working on drafting a procedure to present to stakeholders and then make a recommendation to the CWC. The Water Quality Standards rule would need to be filed with the Secretary of State by June 15 for publishing in the July 15 Missouri Register. It was recommended having meetings every month along with the WQCC meeting. Phil suggested sending a draft UAA protocol to the WQCC group prior to the June 15 meeting. Timing is critical since the recreation period is April 1 - October 31.

The next section for revisions are those that EPA classified as areas that Missouri should look at but are not required for changes. Using EPA's *Ambient Water Quality Criteria for Bacteria-1986*, the draft rulemaking will change the indicator bacteria to *E. coli* at 126 colonies/100 mL instead of the current fecal coliform at 200 colonies/100 mL, and allow a three-year transition period. Currently, Missouri has an Antidegradation Policy but not implementation procedures. Draft language is included that provides for the development and use of Antidegradation Implementation Procedures. Current mixing zone allowances in intermittent or ephemeral streams, or streams with a seven (7)-day Q_{10} of 0.1 cfs or less, might not protect the aquatic life communities under all hydrological circumstances. Draft language will include that an allowance for mixing zones in Class C streams and streams with seven (7)-day Q_{10} low flows of 0.1 cfs or less will not be allowed. Discussion on mixing zones and the challenges of no-discharge systems and limits followed. Currently the standards allow an exceedance of bacteria limits during periods of storm water runoff (high flow exemption) which might not ensure that WBCR is adequately protected. High flow exemption will be quantified as applying during a catastrophic storm event (24-hour, 25 year) in the draft rulemaking.

The final group of revisions are those in which the department is recommending changes. Seven definitions will be added and clarifications added on two others. Bull Creek in Christian County will be added as an Outstanding

State Resource Water as directed by the Clean Water Commission at their meeting on June 18, 2003. Table B will be updated using EPA's 1999 *Update of Ambient Water Quality Criteria for Ammonia* and have three tables instead of the current six. Several changes will be made to Table I, Biocriteria Reference Locations, due to water withdrawal for irrigation, accessibility limitations and refinement of selection processes. Other minor changes include a name change and other general errors.

The proposed timeline is as follows. The Proposed Amendment would be published in the *Missouri Register* in July 2004. A Public Hearing would be held at a CWC meeting in the Fall of 2004. The extended public notice comment period would end in January 2005. After the final CWC action, the Order of Rulemaking would be published in the *Missouri Register* in May 2005, in the *Code of State Regulations* in June 2005 with an effective date of July 2005.

There will be opportunities for public participation. Stakeholder meetings will be held between now through the end of the *Missouri Register* public notice period, which would be July to December 2004. Oral or written comments will also be accepted at the public hearing at the Clean Water Commission meeting.

A suggestion was made to change the location of the June 15 WQCC meeting from Columbia to Jefferson City.

Phil asked the group to let him know if there was any particular topic that the group would like further discussion or clarification that could be brought back to the June 15 meeting. Jim stated that a working draft was provided to EPA and the CWC but has not been approved by the department yet.

Agency Activities

Gary Baclesse mentioned that the Soil & Water Districts Commission will be meeting May 19 and approving the 13 SALT projects. Contact Gary for more information the project titles.

Greg Anderson said the grants training provided by the Nonpoint Source Unit was a success. They are reviewing the 319 grant pre-proposals in preparation for the final proposals.

Charles Hays said the fifth and final Regional Water Use Report for the State Water Plan was published and available from Rolla's publication desk. It will soon be on GSRAD's web site. Next will be a summary and analysis of all five reports, which should be completed late summer or early fall.

Angel Kruzen reminded the group that June 5 is the Jacks Fork River cleanup. Information can be obtained by calling (417) 932-6343, Ted or Pat Haviland. Two canoes have been purchased to give away.

Anne Peery has been working with department staff and EPA on a modified 303(d) list to be put on the department's web site. EPA's 303(d) list is the official list but this list will be a more user-friendly list.

Jim Hull mentioned the next Clean Water Commission meeting will be held on June 2 in Jefferson City at Capital Plaza Hotel.

Royan Teter commented on the lawsuit filed by the Coalition for the Environment. The case is moving forward. In the negotiation process the Court is scheduled for filing a brief. In December or January, when the parties got together to discuss the possibility for a settlement, both sides agreed that it was worth negotiating and filed a joint motion for a stay in the case to allow negotiations to proceed. The Court denied that motion and has been hesitant to grant extensions to any of the deadlines. Recently, there were a couple of parties that filed motions to intervene. In response, parties asked for an extension of the briefing dates, which was granted. Briefs that were originally due on May 28 are now due mid-June. Overall, the litigation process is moving forward at the same time. Royan suggested factoring this in while thinking about the UAA process.

Becky asked the group to send any suggested agenda items for discussion at the WQCC meetings to either Darlene or her.

Meetings & Conferences

June	19	Missouri River Clean Up, St. Charles, Missouri
August	2-6	North Fork Project's "Watersheds Concepts and Curriculum Review," Stoutsville